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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,726	01/16/2004	George Rodriguez	2004B005	6549
23455	7590	06/20/2006		
EXXONMOBIL CHEMICAL COMPANY 5200 BAYWAY DRIVE P.O. BOX 2149 BAYTOWN, TX 77522-2149			EXAMINER BROWN, JENNINE M	
			ART UNIT 1755	PAPER NUMBER

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,726

Applicant(s)

RODRIGUEZ ET AL.

Examiner

Jennine M. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/30/2006 (RCE and IDS).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/30/06.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 3/30/2006 was considered by the examiner.

Allowable Subject Matter

The indicated allowability of claims 1-17 is withdrawn in view of the newly discovered references to Richeson, et al. (WO 02/16681 A1) and Lin, et al. (WO 02/16480 A2). Rejections based on the newly cited references follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richeson, et al. (WO 02/16681 A1) or Lin, et al. (WO 02/16480 A2).

Richeson, et al. disclose on page 4 that the catalyst system comprises at least one fluorided silica support and at least one non-coordinating anion activator. Activators are disclosed (page 17-21), wherein the activator comprises boron, such as tri(n-butyl)ammonium tetrakis(pentafluorophenyl)boron. The support disclosed (page 21-24) is porous silica with a surface area from 10-700 m²/g, pore volume in the range of 0.1-4.0 cc/g and average particle size from 10-500 μm, which is dehydrated at a temperature from 100-800 °C from 3-24 hours and fluorided by treatment with a fluorine compound prior to reacting with the metallocene or activator compounds. The fluorine containing compounds (page 22).

The disclosure of Lin, et al. is similar to that of Richeson, et al. wherein non-coordinating borate activators are disclosed (page 16-20) with a fluorinated modified silica support composition (page 20-23).

Motivation for supporting the catalyst comes from the desire to prevent reactor fouling, improve product morphology and bulk density as well as separation and recycling of the catalyst for re-use. A prima facie case of obviousness may be made when chemical compounds have very close structural similarities and similar utilities. "An obviousness rejection based on similarity in chemical structure and function entails the motivation of one skilled in the art to make a claimed compound, in the expectation that compounds similar in structure will have similar properties." In re Payne, 606 F.2d 303, 313, 203 USPQ 245, 254 (CCPA 1979). See In re Papesch, 315 F.2d 381, 137 USPQ 43 (CCPA 1963) (discussed in more detail below) and In re Dillon, 919 F.2d 688,

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16 USPQ2d 1897 (Fed. Cir. 1991) (discussed below and in MPEP § 2144) for an extensive review of the case law pertaining to obviousness based on close structural similarity of chemical compounds. See also MPEP § 2144.08, paragraph II.A.4.(c).

Each of the references cited above have one or more fluorinated compounds which are combined with a silica support material wherein the support material is not necessarily pre-calcined before being fluorinated and then reacted with an ammonium borate type compound. These compounds give provide a more stable support for catalysis so that side reactions with the support material are not produced during polymerization in a reactor and an increased reactivity during re-use is seen.

Relevant Prior Art Cited

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Specs (US 6524988 B2 and US 6368999 B1) both disclose a method and product produced wherein silica catalyst supports are fluorinated with an ammonium fluoride composition as well as a highly fluorinated tris alkyl borane compound.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennine M. Brown whose telephone number is (571) 272-1364. The examiner can normally be reached on M-R 9:30 AM - 7:30 PM; Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jmb


J.A. LORENGO
SUPERVISORY PATENT EXAMINER